

- C000 General Information
C030 Nonmailable Written, Printed, and Graphic Matter

C031 Written, Printed, and Graphic Matter Generally

031

Summary C031 describes the mailing of solicitations requiring a disclaimer, lottery and advertising matter, and other matter that may not be mailed (e.g., lewd, matter inviting violence, animal fighting).

1.0 SOLICITATIONS IN GUISE OF BILLS, INVOICES, OR STATEMENTS OF ACCOUNT (39 USC 3001(D); 39 USC 3005)

General
1.1 Any otherwise mailable matter that reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to 1.2 through 1.6. A nonconforming solicitation constitutes prima facie evidence of violation of 39 USC 3005. Compliance with this section does not avoid violation of Section 3005 if any part of the solicitation or any information with it misrepresents a material fact to the addressee (e.g., misleading the addressee about the identity of the sender of the solicitation or about the nature or extent of the goods or services offered may be a violation of Section 3005).

Required Disclaimer
1.2 The solicitation must bear on its face either the disclaimer required by 39 USC 3001(d)(2)(A) or the notice: "THIS IS NOT A BILL. THIS IS A SOLICITATION. YOU ARE UNDER NO OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT THIS OFFER." The statutory disclaimer or the alternative notice must be displayed in conspicuous boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print on the face of the solicitation and that are at least as large, bold, and conspicuous as any other print on the face of the solicitation but not smaller than 30-point type (see Exhibit 1.2).

Surrounding Matter
1.3 The notice or disclaimer required by this section must be displayed conspicuously apart from other print on the page immediately below each portion of the solicitation that reasonably could be construed to specify a monetary amount due and payable by the recipient. It must not be preceded, followed, or surrounded by words, symbols, or other matter that reduces its conspicuousness or that introduces, modifies, qualifies, or explains the required text, such as "Legal Notice Required by Law."

Intelligibility
1.4 The notice or disclaimer must not, by folding or any other device, be made unintelligible or less prominent than any other information on the face of the solicitation.

Separable Pages
1.5 If a solicitation consists of more than one page or if any page is designed to be separated into portions (e.g., by tearing along a perforated line), the notice or disclaimer required by 1.2 must be displayed in its entirety on the face of each page or portion of a page that might be reasonably considered a bill, invoice, or statement of account due as required by 1.2 and 1.3.

Definitions
1.6 For this standard, *color prominently contrasting* excludes any color, or any intensity of an otherwise included color, that does not permit legible reproduction by ordinary office photocopying equipment used under normal operating conditions,

and which is not at least as vivid as any other color on the face of the solicitation; and *color* includes black.

**Solicitation
Disclaimer**
Exhibit 1.2

Qty.	Listing Category	Amount Due
1	Retail Stores	\$50.00

☐ Check enclosed
 ☐ Bill me later

ACCOUNTS INCORPORATED

PO BOX 10000
WASHINGTON DC 20260-9876

|||||TOM'S RETAIL EMPORIUM
1515 MAIN ST
FAR ROCKAWAY NY 11691-4904

Detach and return this portion with your payment.
Retain this portion as your receipt.

Qty.	Listing Category	Amount Due
1	Retail Stores	\$50.00

Business listings to appear in the 1998 Accounts Incorporated Directory.

Amount: \$50 for each listing.

THIS IS NOT A BILL. THIS IS A SOLICITATION.

YOU ARE UNDER NO OBLIGATION TO PAY

THE AMOUNT STATED ABOVE UNLESS YOU

ACCEPT THIS OFFER.

2.0 SOLICITATIONS DECEPTIVELY IMPLYING FEDERAL CONNECTION, APPROVAL, OR ENDORSEMENT (39 USC 3001(H) AND 3001(I); 39 USC 3005)

USPS Endorsement 2.1

Any solicitation stating that it is approved by the USPS or the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

**Nonmailable by
Government
Misrepresentation** 2.2

A solicitation that misrepresents a government entity is nonmailable subject to these conditions:

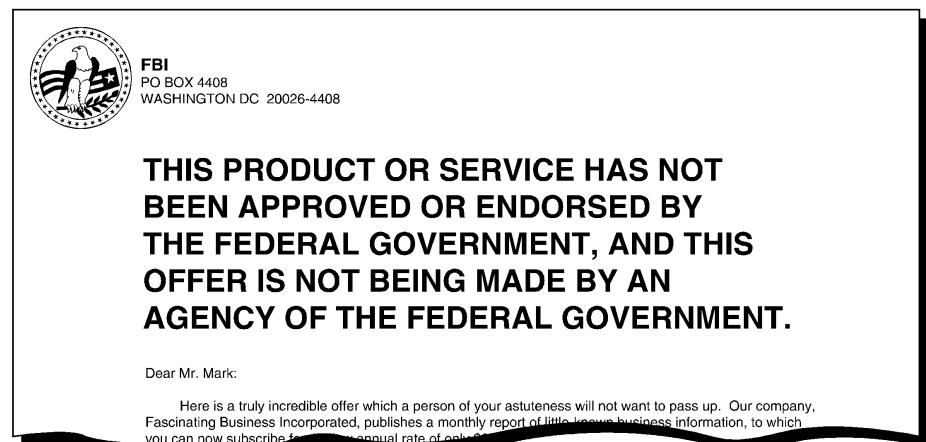
- a. Matter that contains a solicitation for products, services, information, or funds that implies any federal government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a federal statute, name of a federal agency, department, or commission, or program, trade, or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the federal government is nonmailable unless it conforms to 2.3. A nonconforming solicitation constitutes prima facie evidence of violation of 39 USC 3005. Compliance with 2.3 does not avoid violation of 39 USC 3005 if the solicitation or accompanying information misrepresents material fact such as the nature, value, quantity, quality, or efficacy of the products or services offered for sale, or of the activities of an organization asking for information or monetary contributions.
- b. Such solicitations must not contain a false representation that federal government benefits or services will be affected by whether or not the recipient makes a purchase or contribution.
- c. Solicitations for payment for services otherwise available to the recipient free of charge from the federal government are nonmailable unless they contain a clear and conspicuous statement giving notice of that fact.

**Permitted
Solicitations**
2.3

A solicitation described in 2.2a may be mailable if it meets at least one of these conditions (see Exhibit 2.3):

- a. The solicitation is by a nongovernmental entity that actually has the federal government connection, approval, or endorsement implied by the solicitation's terms or symbols.
- b. The solicitation appears in a publication for which the addressee has paid or promised to pay a consideration or which the addressee has otherwise indicated he or she wants to receive, and the solicitation is not on behalf of the publisher of the publication.

**Disclaimers for
Solicitations Implying
Federal Connection**
Exhibit 2.3



- c. The solicitation displays the notice required by 2.3c(1) on the envelope or outside cover or wrapper in which the solicitation is mailed, and one of the two notices required by 2.3c(2) on the contents. These notices must be printed in boldface capital letters of a color prominently contrasting with the background against which they appear. "Color prominently contrasting" excludes any color or intensity that ordinary photocopying cannot reproduce legibly. The color, which can include black, must be at least as vivid as any other color on the face of the solicitation and its envelope or outside cover or wrapper. The required wording, type size and style, and placement for the notices are as follows:
 - (1) On the Envelope, Cover, or Wrapper. The face of the envelope or outside cover or wrapper must bear the notice: "THIS IS NOT A GOVERNMENT DOCUMENT." The letters for printing this notice must be as large, bold, and conspicuous as any other letters on the face of



such envelope, cover, or wrapper, but never smaller than 12-point type. The notice must appear in the upper right quadrant, below the postage stamp or other postage indicia and above the address, and it must be surrounded by a clear space not less than 1/4 inch wide.

- (2) On the Contents. The solicitation mailed within the envelope, cover, or wrapper must bear at the outset on its face one of these two headlines, depending on its purpose as indicated in parentheses: (a) "THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT" (for the purchase of or payment for a product or service); (b) "THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT" (for information or the contribution of funds or membership fees). The letters for printing these notices must be as large, bold, and conspicuous as any other letters on the face of the solicitation, but never smaller than 30-point type. The notice must be surrounded by a clear space at least 1/2 inch wide. The notice must not be preceded, followed, or surrounded by words, symbols, or other matter that reduces its conspicuousness or introduces, modifies, qualifies, or explains the required text, such as "Notice Required by Law." The notice must not, by folding or any other device, be made unintelligible or less prominent than any other information on the face of the solicitation.

3.0 LOTTERY MATTER (18 USC 1302)

Definition
3.1 For this standard, *lottery* is any scheme or promotion, whether lawful under the laws of any state, which, on paying a consideration, offers a prize dependent in whole or in part on lot or chance.

Unlawful Mail Matter
3.2 Unlawful matter includes any letter, newspaper, periodical, parcel, stamped card or postcard, circular, or other matter permitting or facilitating participation in a lottery; any lottery ticket or part thereof or substitute; and any form of payment for a lottery ticket or share.

Fishing Contests, Indian Gaming Regulatory Act, Lotteries
3.3 This standard does not apply to:

- a. Any fishing contest not conducted for profit, in which prizes are awarded for the species, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event (18 USC 1305).
- b. Any gaming conducted by an Indian tribe under the Indian Gaming Regulatory Act (25 USC 2720).
- c. An advertisement, list of prizes, or other information on a lottery not prohibited by the state where it is conducted.

4.0 ADVERTISING MATTER

Restrictions
4.1 Any advertising, promotional, or sales matter that solicits or induces the mailing of any article described in [C021](#), [C022](#), or [C023](#) is nonmailable except that such matter relating to controlled substances, radioactive materials, restricted liquids and powders, battery-powered devices, odd-shaped items in envelopes, and switchblade and ballistic knives, as described in [C021](#), [C022](#), and [C023](#), is



mailable if it contains packaging instructions and any other mailing limitations under C020 and C030 (18 USC 1716).

Master Keys

4.2

Advertisements for motor vehicle master keys are nonmailable (18 USC 1716A, 39 USC 3002), except to lock manufacturers, professional locksmiths, motor vehicle manufacturers or dealers; and federal, state, or local government agencies.

5.0 OTHER NONMAILABLE MATTER

Fictitious Name

5.1

Matter addressed to a person using a fictitious name, title, or address in conducting, through the mail, any scheme or device in violation of law is nonmailable if:

- a. After notification, the addressee fails to appear at the post office and be identified.
- b. The fictitious character of such mail is established to the Judicial Officer's satisfaction in consequence of a proceeding initiated under 39 CFR 953 (18 USC 1342).

Foreign Origin

5.2

Mail of foreign origin is nonmailable if it contains matter determined by a court of competent jurisdiction or by the International Trade Commission to violate the Semiconductor Chip Protection Act of 1984 (17 USC 901-914) or to violate the copyright laws of the United States or any copyright convention or treaty to which the United States is a party (17 USC 601-603).

Foreign Destination

5.3

Matter addressed to foreign countries posted in violation of law or treaty stipulation is nonmailable.

Lewd or Filthy Matter

5.4

Obscene, lewd, lascivious, or filthy publications or writings, or mail containing information on where, how, or from whom such matter may be obtained, and matter that is otherwise mailable but that has on its wrapper or envelope any indecent, lewd, lascivious, or obscene writing or printing, and any mail containing any filthy, vile, or indecent thing is nonmailable (18 USC 1461, 1463).

Matter Inciting Violence

5.5

Any matter of a character tending to incite arson, murder, assassination, treason, insurrection, or forcible resistance to any law of the United States, or containing any threat to take the life of, or to inflict harm upon, the President of the United States is nonmailable (18 USC 1461, 1717).

Other Matter

5.6

Other matter that is nonmailable (18 USC 1717) includes every letter, writing, circular, stamped card or postcard, picture, print, engraving, photograph, newspaper, pamphlet, book, publication, or thing as described in these statutes:

- a. Forged or altered military or official passes (18 USC 499).
- b. Matter bearing forged or altered seals of government departments or agencies (18 USC 506).
- c. Defense information (18 USC 793, 794).
- d. Documents obtained by persons falsely assuming to be foreign diplomats (18 USC 915).
- e. False statements influencing foreign governments (18 USC 954).
- f. Matter relating to a conspiracy to injure property of a foreign government (18 USC 956).
- g. Matter unlawfully in aid of a foreign government (18 USC 957).
- h. Matter relating to an expedition against a friendly nation (18 USC 960).



- i. Matter relating to delivery of an armed vessel to a belligerent nation (18 USC 964).
- j. Matter wrongfully bearing the seal of a government department or agency (18 USC 1017).
- k. Forged, altered, or misused passports (18 USC 1543, 1544). Passport applications containing false statements, and passports falsely obtained (18 USC 1542).
- l. Matter bearing false statements intended to injure Armed Forces during war (18 USC 2388).

Animal Fighting

5.7

Matter promoting or furthering an animal-fighting venture conducted in any state is nonmailable (7 USC 2156). For this standard:

- a. *State* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any U.S. territory or possession.
- b. *Animal* means any live bird, or any live dog or other mammal, except man.
- c. *Animal-fighting venture* means any event involving a fight between at least two animals that is conducted for sport, wagering, or entertainment. The term does not include any activity whose primary purpose involves using one or more animals in hunting other animals.

Private Identification Without Disclaimer

5.8

A private identification document without a disclaimer is nonmailable (18 USC 1738; 39 USC 3001(a)). This group includes any document that:

- a. Is of a type intended or commonly accepted for the identification of individuals;
- b. Bears a birth date or age purported to be that of the person named in it;
- c. Is not issued by or under the authority of a government;
- d. Is deposited in the mail by someone in the business of furnishing, for valuable consideration, documents that meet criteria 5.8a and 5.8c;
- e. Is deposited in the mail to further that business; and
- f. Is deposited by someone who knows that it fails to carry diagonally printed, clearly and indelibly on both the front and back, "NOT A GOVERNMENT DOCUMENT" in capital letters no smaller than 12-point type.

6.0 SWEEPSTAKES MATTER (39 USC § 3001(K)(3)(A))**Definition**

6.1

The term *sweepstakes* means a game of chance for which no consideration is required to enter.

Mailable Matter

6.2

Sweepstakes matter is mailable only if it discloses all of the following:

- a. In the body, in the rules, and on the order or entry form that no purchase is necessary.
- b. In the body, in the rules, and on the order or entry form that a purchase will not increase the odds of winning.
- c. All terms and conditions, including rules and entry procedures of the sweepstakes.
- d. The sponsor or mailer, with the principal place of business or address at which the sponsor or mailer may be contacted.
- e. Sweepstakes rules, including the odds of winning, quantity, value, and nature of the prize and the schedule of any payments over time.

- Nonmailable Matter**
6.3 Sweepstakes matter is nonmailable if it does any of the following:
- Represents that individuals not making a purchase may be disqualified from receiving future solicitations.
 - Requires that the entry be accompanied by an order or payment for a product or service previously ordered.
 - Represents that the recipient has won a prize unless that individual has won such prize.
 - Otherwise contradicts or is inconsistent with any disclosure required by 6.2 or 6.3.

7.0 SKILL CONTESTS (39 USC 3001(K)(3)(B))

- Definition**
7.1 The term *skill contest* means a puzzle, game, competition, or other contest in which a prize is awarded, the outcome depends upon the skill of the contestant, and for which a payment, purchase, or donation is required to enter.

- Mailable Matter**
7.2 Skill contests are mailable only if they include all of the following:
- Disclose the terms and conditions of the contest, including the rules and entry procedures.
 - Disclose the sponsor or mailer, with the principal place of business or address at which the sponsor or mailer may be contacted.
 - Contain rules that state all of the following:
 - Number of rounds or levels and the cost to enter each round.
 - If subsequent rounds will be more difficult.
 - Maximum cost to enter all rounds.
 - Number of entrants or percentage expected to correctly solve the contest.
 - Identity or qualifications of the judges, if judged by other than the sponsor.
 - Method of judging.
 - Dates the winners will be determined and the prizes awarded.
 - Quantity, value, and nature of the prize.
 - Schedule of any payments over time.

8.0 FACSIMILE CHECKS (39 USC § 3001(K)(3)(C))

A facsimile check is nonmailable unless it states on the face of the check that it is not a negotiable instrument and has no cash value.

9.0 EXCLUSIONS AND DISCLOSURES (39 USC §§ 3001(K)(4) & 3001 (K)(5))

- Mailable Matter**
9.1 Matter described in 6.0, 7.0, and 8.0 is mailable if it appears in a magazine, newspaper, or other periodical if the promotions are not directed to a named individual, or the promotions do not include the opportunity to make a payment or order a product or service.
- Notices and Disclaimers**
9.2 Any notice or disclaimer required under 6.0, 7.0, or 8.0 shall be clearly and conspicuously displayed. Disclaimers required by 6.2a and 6.2b must be more conspicuously displayed than any other disclaimer.

**10.0 REMOVAL OF NAMES FROM MAILING LISTS (39 USC § 3001(L))**

- Lists** In general, any person who uses the mails for any mailing falling under [2.0](#), [6.0](#), [7.0](#), or [8.0](#) shall adopt reasonable practices or procedures to prevent the mailing of such matter to any person who, personally or through their legal representative, submits a written request that no such matter shall be mailed to that person. Such request may be made either to the mailer, or the Attorney General, or their representative, of the appropriate state. Such requests shall be honored for a period of five years from the date of the request. The mailer shall maintain a record of all such written requests.
- 10.1

**Special Requirements
for Sweepstakes and
Skill Contests**

- 10.2 Any promoter of sweepstakes or skill contests must make a clear and conspicuous disclosure of the address or toll-free telephone number by which an individual, or their duly authorized representative, may notify a promoter to have that individual's name and address removed from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes. Promoters have 60 days from the date of receipt of the removal request to effect the removal of the name and address from all mailing lists used by that promoter for any skill contest or sweepstakes.